

Application No.: 10/644237

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REMARKS

Claims 1-17 are pending in this application. Claims 1-2 and 13 have been amended in various particulars as indicated hereinabove.

Claims 1 and 13 have been rejected under 35 U.S.C. 112. Claims 1 and 13 have been amended to clarify, and to respond to the rejection.

Claims 1, 2, 5-8, and 13-15 stand rejected under 35 U.S.C. 102(b) as being anticipated in view of Halling. It is well established that a claim is anticipated under 35 U.S.C. §102, only if each and every element of the claim is found in a single prior art reference.<sup>1</sup> Moreover, to anticipate a claim under 35 U.S.C. §102, a single source must contain each and every element of the claim "arranged as in the claim."<sup>2,3</sup> [emphasis added] Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference.<sup>4</sup> If each and every element of a claim is not found in a single reference, there can be no anticipation.

Claims 1 and 13 have been amended to affirmatively recite catalyst. Support may be found at page 5, lines 20-24, page 6, line 27 to page 7, line 2, and example 1. The Halling invention does not use a catalyst. Therefore, claims 1 and 13 are, as presently amended, not anticipated. Nor, therefore, are their dependent claims 2, 5-8, and 14-15.

Claims 3-4, 9-12, and 16-17 were rejected under 35 U.S.C. 103(a) as being obvious in view of Halling.

These rejections are respectfully traversed for the following reason.

For an obviousness rejection to be proper, the Patent Office must meet the burden of establishing a prima facie case of obviousness. Applicants submit that the Patent Office has not met the burden of establishing a prima facie case of obviousness for claims 3-4, 9-12, and 16-17. Claims 3-4, and 9-12 depend ultimately from independent claim 1, which has not received an obviousness rejection. If the independent claim is not obvious, then it is simply common sense that it is not possible for any dependent claim to be obvious. The same is true for 16-17, which depend from independent claim 13, which also has not received an obviousness rejection. Applicants submit that all of the obviousness rejections are improper and respectfully request that they be withdrawn.

<sup>1</sup> *Veregal Bros. v Union Oil Co. of California*, 814 F.2d 628, 631, 2USPQ2d 1051, 1053 (Fed. Cir. 1987).

<sup>2</sup> *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984).

<sup>3</sup> *Lewmar Marine Inc. v. Barient, Inc.*, 827 F.2d 744, 747, 3 U.S.P.Q. 2d 1766, 1768 (Fed. Cir. 1987), cert. denied, 484 U.S. 1007 (1988).

<sup>4</sup> *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985).

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**CONCLUSION**

In view of the foregoing, allowance of the above-referenced application is respectfully requested.

Respectfully submitted,



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